

REMARKS

The Official Action of October 28, 2004, and the prior art relied upon therein have been carefully reviewed. The claims in the application are now only allowable claims 9-12, and therefore the present application should be in condition for formal allowance. Such is respectfully requested.

The restriction requirement has been repeated and made final. Applicants accordingly accept the ruling of the PTO that the three inventions are patentably distinct from one another. Accordingly, applicants have deleted claims 14-31 without prejudice to applicants' rights under §§121 and 120 to pursue the non-elected subject matter in one or more divisional applications.

Claims 9-12 have been objected to as being dependent on a rejected a base claim, but have not been rejected. Indeed, page 4 of the Office Action indicates that these claims "would be allowable if rewritten in independent form..." Applicants accordingly understand that these claims are deemed by the PTO the define novel and unobvious subject matter under §§102 and 103.

Claims 9-11 have now been rewritten in independent form and therefore should now be in condition for formal

allowance. Claim 12 depends from and incorporates the subject matter of allowable claim 11, and therefore it also should be in condition for allowance.

Claims 1 and 13 have been rejected as anticipated by the prior art (Kirch), and claims 2-8 have been rejected as obvious from the prior art (Kirch in view of secondary prior art). As these claims have been canceled above, applicants need not address these rejections at the present time. For the record, however, such claims are deleted without prejudice to applicants' rights to pursue such claims in a continuing application, applicants relying on their rights including those of §120, if applicants choose to pursue such rights.

Also for the record, a careful review of Kirch (Spanish patent ES 2007071), does not reveal any reference to Shiitake mushroom. The closest this patent comes is the broad definition of *Basidiomycetes*. As regards the rejection based on §103, in the absence of Kirch teaching anything regarding Shiitake mushroom, applicants maintain that there would be no motive or incentive for the proposed combination. As indicated above, applicants respectfully reserve the right to pursue claims 1-8 and 113, and/or similar claims in a continuing application.

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Amd. dated January 24, 2005
Reply to Office Action of October 28, 2004

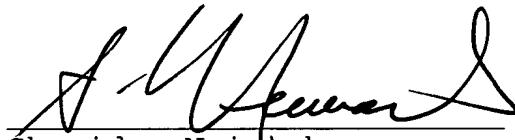
The prior art documents made of record and not relied upon have been noted, along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their application against any of applicants' claims.

Applicants believe that all issues have been addressed above and resolved, the only claims remaining in the application being those which have already been indicated by the PTO to define patentable subject matter. Accordingly, applicants respectfully request favorable consideration and early formal allowance.

Respectfully submitted,

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